

UNITED STATES DISTRICT COURT
WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION

SAMANTHA JO FRANCIS,

Plaintiff,

v.

MARRIOTT INTERNATIONAL, INC. d/b/a
THE WESTIN CHARLOTTE, STARWOOD-
CHARLOTTE MANAGEMENT, LLC,
MARRIOTT HOTEL SERVICES, INC., and
WESTIN CHARLOTTE PAYROLL
COMPANY,

Defendants.

C/A NO. 3:19-cv-00120

NOTICE OF REMOVAL

TO THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF NORTH CAROLINA:

By this Notice of Removal, pursuant to 28 U.S.C. §§ 1331, 1367, 1441, and 1446, Defendants Marriott International, Inc. d/b/a The Westin Charlotte, Starwood-Charlotte Management, LLC, and Marriott Hotel Services, Inc. (“Defendants”), through undersigned counsel, hereby remove this civil action from the General Court of Justice, Superior Court Division, Mecklenburg County, North Carolina (the “Superior Court”), to the United States District Court for the Western District of North Carolina, Charlotte Division. Defendants state the following grounds for removal:¹

1. On January 31, 2019, Plaintiff Samantha Jo Francis (“Plaintiff”) commenced this action by filing a Complaint in the Superior Court, Case No. 19CVS1027 (“Complaint”).

¹ Defendants note that Westin Charlotte Payroll Company was dissolved in 1999 and no longer exists. Further, Defendants are not aware of service of process being received by any Marriott International, Inc. related entity behalf of Westin Charlotte Payroll Company.

2. On February 7, 2019, Defendant Starwood-Charlotte Management, LLC, through its registered agent, received the Summons and the Complaint. On February 8, 2019, Defendants Marriott International, Inc., and Marriott Hotel Services, Inc., through their registered agents, received the Summons and the Complaint. A true and accurate copy of the service of process received by each of these Defendants is attached hereto as Exhibit A.

3. Accordingly, this Notice of Removal has been timely filed within thirty (30) days of Defendants' receipt of the Complaint as required by 28 U.S.C. § 1446(b).

4. The Complaint and the Summons received by Defendants constitute all of the process, pleadings, and orders served upon Defendants in this action. Defendants have filed no pleadings in the Superior Court in this action.

5. In this lawsuit, Plaintiff asserts a claim for hostile work environment in violation of Title VII of the Civil Rights Act of 1964, 42 U.S.C. §2000e *et seq.* ("Title VII") and claims of assault, battery, intentional infliction of emotional distress, negligent infliction of emotional distress, and negligent retention and supervision pursuant to North Carolina state law (collectively referred to as "State Law Claims").

6. Pursuant to 28 U.S.C. §1331, this Court has federal question jurisdiction over this action because Plaintiff alleges a claim for hostile work environment pursuant to Title VII, which is a federal cause of action over which this Court has original federal question jurisdiction. 28 U.S.C. §1331. Thus, this action may be removed on the basis of original federal question jurisdiction pursuant to 28 U.S.C. § 1441(b).

7. Pursuant to 28 U.S.C. § 1367, this Court has supplemental jurisdiction over Plaintiff's State Law Claims, as those claims are "so related [to Plaintiff's Title VII claim] that they form part of the same case or controversy under Article III of the United States Constitution."

28 U.S.C. § 1367(a). Thus, Plaintiff's State Law Claims may also be removed on that basis pursuant to 28 U.S.C. § 1441(c).

8. Venue is proper in the United States District Court for the Western District of North Carolina, Charlotte Division, as this case was originally filed in Mecklenburg County, North Carolina. *See* 28 U.S.C. § 1446(a).

9. In accordance with 28 U.S.C. § 1446(d), a copy of this Notice will be filed with the Clerk of the Superior Court and served upon all adverse parties promptly after the filing of the original Notice of Removal in this action. A copy of the Notice of Filing of Notice of Removal is attached hereto as Exhibit B.

WHEREFORE, take notice that Defendants, by and through its undersigned counsel, hereby removes the above-entitled action from the General Court of Justice, Superior Court Division, Mecklenburg County, North Carolina, to the United States District Court for the Western District of North Carolina, Mecklenburg Division.

Respectfully submitted this 8th day of March, 2019.

s/ Julie K. Adams

Julie K. Adams, NC Bar No. 32773
jadams@fordharrison.com
FORD & HARRISON LLP
6000 Fairview Road, Suite 1200
Charlotte, NC 28202
Telephone: 980-282-1900
Facsimile: 980-282-1947
Attorney for Defendants

CERTIFICATE OF SERVICE

I hereby certify that on March 8, 2019, a copy of the foregoing **NOTICE OF REMOVAL** has been filed with the Court via CM/ECF system and served upon the following person(s) via US Mail to:

Kevin Murphy
kevin@herrmannmurphy.com
Sean Herrmann
sean@herrmannmurphy.com
Hermann & Murphy, PLLC
1712 Euclid Avenue
Charlotte, NC 28203
704-940-6399
F: 704-940-6407

Attorneys for Plaintiff

s/ Julie K. Adams

Julie K. Adams